IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

CRP.No. 1660 OF 2000(E)

S.R.24/97 OF THE TALUK LAND BOARD, NILAMBUR.
CR.107/1973 OF TALUK LAND BOARD, ERNAD

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REVN. PETITIONERS/ DECLARANTS:

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1. VETTEKODAN MOHAMMED, S/O. AVARAN HAJI, M.A. HOUSE, MAMPAD VILLAGE, P.O. MEPAD, NILAMBUR TALUK, MALAPPURAM DIST.

2. M. AMINAKUTTY, W/O. MOHAMMED, DO. DO.

BY ADV. SRI.P.VIJAYAKUMAR
SRI.P.NANDAKUMAR

RESPONDENTS:

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1. THE CHAIRMAN, TALUK LAND BOARD, NILAMBUR, MALAPPURAM DIST.

2. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, THIRUVANANTHAPURAM.

GOVERNMENT PLEADER SRI. NOBLE MATHEW.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P. NO. 1660/2000

ORDER ON CMP NO. 3380/2000 IN C.R.P. 1660/2000

// DISMISSED //

21.3.2007 SD/-
P.R. RAMAN, JUDGE.

// TRUE COPY//

P.S. TO JUDGE.

knc/-

P.R. RAMAN, J.

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C.R.P. NO. 1660 OF 2000

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DATED THIS, THE 21ST DAY OF MARCH, 2007.

O R D E R

This revision is directed against the order of the Taluk Land Board, Nilambur in S.R. 24/97 (old No. C.R. 107/73 of the Taluk Land Board, Ernad) by which the petitioners are directed to surrender an extent of 14.98 1/2 Acres of land from different survey numbers in Mampad Village, as though they are holding the said extent as excess land.

2. Briefly stated, the facts are as follows: An extent of 46.52 1/2 Acres of land was directed to be surrendered as per an earlier proceeding dated 29.12.1980 against which C.R.P. 497/1981 was filed before this Court. That order was set aside and the matter was remanded for a fresh consideration. During the pendency of the said revision petition, this Court directed to surrender an extent of 8 acres and there is no dispute that the said extent was surrendered by the petitioners. Eventually that civil revision petition was also allowed by way of remand. After remand, the Taluk Land Board again passed an order, whereby it was held that an extent of 8 acres

of land alone is the excess land and adjusted the said extent against the surrender already made. As such there was no remaining balance extent to be surrendered. Thereafter, the Taluk Land Board reopened the case invoking the powers under Section 85(9) of the Kerala Land Reforms Act and by its order dated 15.9.1990 an extent of 34 Acres and 55 1/2 cents were directed to be surrendered as excess land against which C.R.P. No. 2340/1990 was filed. The said Civil Revision Petition was disposed of by this Court on 27th October, 1993. It was found by this Court that in R.S. 537/1C and Rs. 41/1 the declarant was entitled to a share in an area of 49 and odd acres and a portion of the said property is admitted to be in the possession of the declarant and the remaining extent, according to the declarant, were outstanding in possession with tenants. In that regard, the authorized officer's report also shows that there were about 90 people in occupation of those lands who have also obtained purchase certificates from 1973 to 1977. The Land Board did not exclude those lands and brushed aside the certificates issued by the Land Tribunal on the sole ground that the declarant's name does not figure therein. This Court noticed the contention of the declarant that he is only an intermediary and the ultimate jenmi is a party to the proceedings before the Land Tribunal. In

these circumstances, this Court directed that the matter requires reconsideration and the claim for exclusion of the land in R.S. 537/1C and 41/1 was directed to be considered again vide para 12 of the order of this Court in the said C.R.P. The order of the Taluk Land Board was confirmed in all other respects. The Taluk Land Board took for consideration the matter again pursuant to the remand order as referred to above and the passed the order which is impugned herein.

3. From the opening paragraph of the order, it is self evident that the order impugned only relates to the claim of 39 such tenants who put forth their claim under Section 85(8) of the Kerala Land Reforms Act and there are other applications which are yet to be considered and dealt with by separate orders to be issued. Therefore, this is only an interim order. A final order could be passed only after considering the other applications as well since if the tenancy in respect of those cases were also ultimately to be allowed, necessarily, those land will also have to be excluded from the ceiling case of the declarant in the matter of surrender. But without even waiting for the final orders to be passed regarding the remaining applications, the Taluk Land Board jumped into the conclusion that the revision petitioners are holding excess land. The question as to whether the

petitioner is holding any excess land over and above the 8 acres already surrendered by them could be finally said only when all the claims under Section 85(8) are considered and disposed of. Admittedly, 39 of such applications were considered and orders were not passed with regard to the remaining applications at the time of passing the present order. For that reason alone, the order impugned in this revision is set aside. The matter is remanded to the Taluk Land Board for passing a composite order after consideration of the other applications as well, after due notice to the parties.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.

C.R.P. 1660/2000

O R D E R

21ST MARCH, 2007.